

(3)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR
(CHHATTISGARH)

WRIT PETITION No. 1885/2005

PETITIONER

Mohit Ram Dhruve, aged about 52 years, S/o Late Shri Vishal Ram Dhruve, Permanent Address, Qrt. No. 3-A, Street 27, Sector-9, Bhilai Distt, Durg

P.R. No. 1705/05

Presented by Shri. Anand Shukla

dated 19-04-05

VERSUS

RESPONDENTS

1. The State of Chhattisgarh Through Secretary, Ministry of Home, D.K.S. Bhawan, Raipur
2. Under Secretary, Ministry of Home, D.K.S. Bhawan, Raipur
3. Director General of Police Raipur
4. Asstt. Transport Commissioner Raipur
5. Superintendent of Police Dantewada C.G.



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15-4-05
CLERK to A. G. ELASTOR

WRIT PETITION UNDER ARTICLE 226 & 227 OF THE
CONSTITUTION OF INDIA

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...W.P.No...1885...5... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	<u>12-5-2005</u> Shri Parag Kotecha, counsel for the petitioner. Shri Sandeep Dubey, Govt. Advocate for the State/respondents. With the consent of counsel for the parties, the matter is being disposed of finally. By this writ petition the petitioner has questioned the legality, propriety and correctness of the order Annexure-P/5 dated 29-3-2005 whereby the petitioner's promotion has been cancelled and he has been debarred from promotion for one year and at the same time deputation has been cancelled and he has been asked to join on the post of Reserved Inspector, Surajpur. Brief facts leading to filing of this writ petition are that the petitioner was working as Sub Inspector in the Police Department and vide order dated 9-6-2003 he was sent on deputation to the Transport Department where he remained posted as Transport Inspector at Korba. Thereafter, he was posted to Konta, District Dantewada. Again after 6 months he was transferred to Shankha, District Jashpur on 24-6-2004. Again he was transferred to Konta on 28-1-2005. In the meantime, the Police Department promoted him to the post of Deputy Superintendent of Police. P.T.S. Borgaon. As the petitioner's younger son aged about 21 years died on 5-9-2004 and just one month after	

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आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -२-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	his elder brother died on 26-10-2004, therefore, due to family problems the petitioner made a representation to respondent No.3 that he may be allowed to continue in the present posting of Transport Inspector and he does not want to join on the promotional post on account of compelling circumstances. However, respondent No.2 issued the impugned order, instead of allowing the application of the petitioner his promotion has been cancelled and he has been debarred from promotion for one year and has been asked to join as Reserved Inspector in the District Surajpur. I have heard learned counsel for the parties. Learned counsel for the petitioner submitted that this order is prima facie illegal because when the petitioner requested to allow him to continue on the present posting of Transport Inspector in the Jashpur District on account of family problems, in that case, either respondents ought to have allowed the petitioner to remain on the same post or if the respondents were not satisfied with the request made by the petitioner, then at least he ought to have been informed about the rejection of the request and sufficient time must have been given to him to join on the promotional post. In the circumstances, this order amounts to double jeopardy to the petitioner. Learned counsel further submitted that the petitioner may be allowed to make a	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	detailed representation to respondent No.1 and respondent No.1 be directed to reconsider the request regarding cancellation of promotion order and debarring the petitioner from promotion for one year to which counsel for respondents has no objection. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case and also looking to the limited request made by learned counsel for the petitioner which appears to be just and fair, in the ordinary course, when the petitioner made a representation for allowing him to continue on deputation on the post of Transport Inspector on account of his family difficulties, it was for the competent authority either to allow the application or reject the application and the petitioner ought to have been given opportunity saying that request made by him is rejected and he should join on the promotional post within a period fixed by the authority and if during that period, had the petitioner failed to join duty, in that event only respondents authorities were competent to pass order regarding cancellation of the promotion, therefore, the petitioner is allowed to make a detailed representation to respondent No.1 raising all his grievances within a period of 15 days from today mentioning therein that if the Department does not want to allow him to continue on deputation, then he is prepared to come back in the parent department	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -4-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	and prepared to join on the promotional post, then respondent No.1 should consider his representation sympathetically and decide the same within a period of one month from the date of receipt of the representation in an objective manner after considering all the points raised by the petitioner in accordance with law. With the direction aforesaid, the petition stands disposed of. Consequently, M.(W.)P. No.1464/2005 also stands disposed of. Parties are entitled for certified copy of this order.	Sd/- L.C.BHADOO Judge

Barve

13.5.05
23.6.05